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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the)
Local Competition Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-98

To: The Commission

REPLY COMMENTS OF
ITC^DELTACOM COMMUNICATIONS, INC., D/B/A ITC^DELTACOM

ITC^DeltaCom Communications, Inc., d/b/a ITC^DeltaCom ("ITC^DeltaCom"), hereby submits these reply comments on behalf of itself and its parent Interstate FiberNet ("IFN")¹ in response to the Commission's *Public Notice* in the above-captioned proceeding.² As an initial matter, ITC^DeltaCom agrees with the comments and reply comments submitted by the Competitive Telecommunications Association ("CompTel") that use restrictions violate the plain and unambiguous language of the 1996 Act.³ ITC^DeltaCom also agrees with CompTel and others that there is no basis for revisiting the FCC's findings in the *UNE Remand Order* that

¹ Throughout these comments, no distinction will be made between ITC^DeltaCom and its parent, IFN, with regard to services provided.

² *Comments Sought on the Use of Unbundled Network Elements to Provide Exchange Access Service*, CC Docket No. 96-98, Public Notice, DA 01-169 (rel. Jan. 24, 2001) ("Notice"). See also *Common Carrier Bureau Grants Motion for Limited Extension of Time for Filing Comments and Reply Comments on the Use of Unbundled Network Elements to Provide Exchange Access Service*, CC Docket No. 96-98, Public Notice, DA 01-501 (rel. Feb. 23, 2001) (extending filing dates for comments to April 5, 2001 and for reply comments to April 30, 2001).

³ See, e.g., Comments of CompTel at 17-29.

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requesting carriers are impaired without access to EELs.⁴ For the sake of brevity, ITC^DeltaCom does not repeat CompTel's arguments here.

Because there is no basis for revisiting the FCC's findings in the *UNE Remand Order* that requesting carriers are impaired without access to EELs, there is no reason to consider the ILEC's "studies" on special access service markets.⁵ Nevertheless, ITC^DeltaCom submits these brief reply comments to correct numerous errors in the USTA Report about ITC^DeltaCom's facilities and services so that silence on the issue is not misinterpreted by the Commission as agreement with the USTA Report. ITC^DeltaCom urges the Commission to request comment on these issues at a later date when it updates the record in this proceeding with respect to all UNEs. At that time, the Commission should request updated information from all interested parties and conduct its own studies as necessary. In this way, the Commission can prevent the ILECs from continually attempting to chip away at its impairment findings by submitting incomplete and inaccurate data.

ITC^DeltaCom submits the following corrections to inaccurate or misleading statements found in the USTA Report about the products and services that ITC^DeltaCom offers on a retail and wholesale basis or the facilities that ITC^DeltaCom uses to provide them:

1. ITC^DeltaCom does not lease, own, manage or market fiber in Albany-Schenectady-Troy, New York.⁶ In fact, ITC^DeltaCom is only a reseller of long distance services in the state of New York; further, ITC^DeltaCom does not even market/advertise its long distance services in the state of New York, we simply sought long distance reseller

⁴ See, e.g., Comments of CompTel at 34-35; Reply Comments of CompTel at 9-10.

⁵ See, e.g., USTA Report on Competition for Special Access Service, High-Capacity Loops, and Interoffice Transport, CC Docket No. 96-98 (April 5, 2001) (Prepared for BellSouth, SBC, Qwest, and Verizon).

⁶ USTA, Exhibit B-6, Item 67.

certification in New York so that our customers could utilize their ITC^DeltaCom travel cards for intrastate New York long distance calling.

2. ITC^DeltaCom does not lease, own, manage or market fiber in Wilmington-Newark, Delaware, Maryland.⁷ In fact, ITC^DeltaCom is only a reseller of long distance services in Delaware and Maryland and sought long distance certification in these states on the same basis as that described in paragraph one (1) above.

3. ITC^DeltaCom does not lease, own, manage or market fiber in Lexington, Kentucky.⁸ In fact, ITC^DeltaCom is currently reselling long distance services in Kentucky⁹; however, ITC^DeltaCom has an expired interconnection agreement with BellSouth Telecommunications, Inc., (“BellSouth”) that encompasses the state of Kentucky that it will likely replace. ITC^DeltaCom provides retail local, long distance, data/internet, and customer premise equipment in the Southern United States.¹⁰ ITC^DeltaCom’s parent, IFN, provides wholesale transport services to carriers. Neither ITC^DeltaCom nor IFN is a competitive access provider (“CAP”).¹¹

4. ITC^DeltaCom is not building local fiber networks in Austin or San Antonio, Texas. In Dallas, IFN has fiber that connects to ITC^DeltaCom POPs with a third carrier so that IFN can provide interLATA transport services to other carriers. In Houston,

⁷ USTA, Exhibit B-7, Item 89.

⁸ USTA, Exhibit B-8, Item 113.

⁹ In Kentucky, we also lease inter-LATA DS1s and DS3s for the purpose of inter-LATA transport services for our carrier customers, not associated with local services.

¹⁰ See color map attached as Exhibit A.

¹¹ The one and only instance where ITC^DeltaCom provides special access type services to another carrier is in Atlanta, Georgia. Further, many CAPs use each others fibers, so it appears there is more competition in the marketplace than what may be present. For example in Dallas and Atlanta, ITC^DeltaCom leases from a CAP fiber to get from one building to another.

ITC^DeltaCom has fiber that ties its two POPs together. In no instance in Texas, is ITC^DeltaCom or IFN providing local special access services to other carriers.

5. ITC^DeltaCom is only providing interLATA services in Little Rock, Arkansas.

6. ITC^DeltaCom does not compete with BellSouth in the special access market. In fact, ITC^DeltaCom relies heavily on BellSouth for Special Access entrance facilities.¹² Over 95% of ITC^DeltaCom's local facilities utilize BellSouth's tariffed Special Access services for UNEs.

7. Why does ITC^DeltaCom use BellSouth Special Access services more than 95% of the time and not a CAP? Contrary to USTA and BellSouth's assertions, most CAPs (the ones that are still in business and not in Chapter 11 bankruptcy)¹³ do not have automated systems to process ASRs such as that used by BellSouth. In addition, no CAP has the ubiquitous services that BellSouth can and does provide. Most CAPs rely on BellSouth via Type II services for services restricted to a defined metro area. For ITC^DeltaCom to order the special access services it needs through CAPs, ITC^DeltaCom would have to enter into numerous contracts which is impractical and costly. Most CAPs require revenue and volume commitments, which is impractical for small CLECs entering into the market. BellSouth, on the other hand, offers a transport volume and term plan that ITC^DeltaCom has heavily relied upon. If ITC^DeltaCom ordered special access services exclusively or predominately from CAPs operating in BellSouth territory, ITC^DeltaCom would have to manage multiple CAP business procedures on a manual

¹² Of course, ITC^DeltaCom does desire to take advantage of the Commission's order on UNEs and combinations but as yet, has not received any benefit from the Commission's June 5, 2000 Supplemental Order Clarification in Docket 96-98.

¹³ ITC^DeltaCom had services with a CAP in Birmingham, Alabama – it filed for Chapter 11 bankruptcy.

basis and would not be able to integrate each CAPs processes into ITC^DeltaCom's automated systems. Dealing with one or two RBOCs is enough of a challenge. Many CAPs share each other's fiber networks; therefore, it is difficult to determine the actual coverage of a CAP versus the RBOC. CAPs do not have automated systems that allow CLECs or other carriers to view coverage. Most attempts for this information come from CAP sales teams, where the data is usually not updated, incomplete or not MSAG (E911 address compliant.). In fact, ITC^DeltaCom has not had an update from any CAP provider this year, with regard to this information.

8. The simple fact that ITC^DeltaCom has collocation sites in BellSouth territory or has access to "collocation hotels" is not even remotely indicative that it is offering special access services as a CAP. ITC^DeltaCom's collocation sites serve the purpose of connecting BellSouth DS0 UNEs to Access Nodes and then utilizing BellSouth special access services to connect to ITC^DeltaCom's Point of Interconnection ("POI"). In some instances, we have chosen to locate our POP in a BellSouth central office as a convenience to our wholesale carrier customers and as an alternative to building our own POP, but not for the purposes of selling special access services to other carriers within the local calling area or central office boundaries.

9. It is also noteworthy that more than one of the carriers listed in Appendix B of USTA's Comments have filed Chapter 11 bankruptcy.¹⁴

¹⁴ Both e.spire and ICG are in bankruptcy proceedings.

CONCLUSION

ITC^DeltaCom urges the Commission to act promptly to ensure that ITC^DeltaCom and all requesting carriers have unrestricted use of all UNEs and UNE combinations, including the EEL. The Commission should also lift the restrictions on co-mingling.

Respectfully submitted,

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Dated: April 30, 2001

Fiber Optic Network



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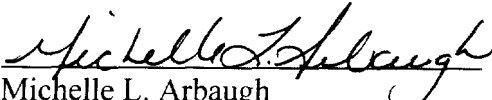
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